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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/254,005    03/01/99    ATARASHI

T    Q53451

IM22/0508  
SUGHRUE MION ZINN MACPEAK & SEAS  
2100 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20037

EXAMINER

KRUEER, K

ART UNIT

PAPER NUMBER

1773

8

DATE MAILED:

05/08/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Advisory Action

Application No.  
09/254,005

Applicant(s)  
Atarashi et al.

Examiner  
Kevin Krueer

Art Unit  
1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Apr 27, 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (See NOTE below);
- (b) ☐ they raise the issue of new matter. (See NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

4. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_

5. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).

6. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_

7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):

Claim(s) allowed: NONE

Claim(s) objected to: NONE

Claim(s) rejected: 1, 3, and 5-8

9. ☐ The proposed drawing correction filed on \_\_\_\_\_ a) ☐ has b) ☐ has not been approved by the Examiner.

10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

11. ☒ Other: see attached sheet & PTO 892

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### ADVISORY ACTION

1. Applicant's arguments filed May 4, 2001 have been fully considered but they are not persuasive. The proposed amendment to claim 5 will be entered upon timely submission of a Notice of Appeal and Appeal Brief with requisite fees and will overcome the claim objection to claim 5.

With respect to the rejection of claims 1, 3, and 5 as anticipated by Kemp Jr. '148, Applicant argues that the claims are drawn to a consolidated material formed by melting only the coating films of the particles. However, Kemp teaches uniform, dense, coatings are formed by melting only the coating of the coated particles (col 3, lines 1-5). Applicant also argues that the materials taught by Kemp Jr. are not consolidated. The examiner respectfully disagrees with applicant's interpretation of the reference. Kemp Jr. teaches that the coatings may be melted to from a uniform, dense coating (col 3, line 5). Thus, Applicant's arguments are not persuasive.

Applicant argues that Atarashi does not anticipate claims 1, 3, and 5-8. Specifically, Applicant argues that the claimed consolidated coatings maintain properties of both particles and a consolidated material. However, such a feature is not claimed and it is unclear from the disclosure what properties are associated with a particle and which properties are associated with a consolidated material. Thus, applicant's arguments are not persuasive. Furthermore, the examiner disagrees with applicant's argument that a magnetic toner is not fused. The prior art teaches that a resin-coated magnetic toner is selectively deposited on a substrate, and then heated in order to melt the resin coating and fuse the particles together (see US 3,909,258 which is cited by Atarashi in col 9, line 37).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R. Kruer whose telephone number is (703) 305-0025. The examiner can normally be reached on Monday-Friday from 7:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver, can be reached on (703) 308-1261. The fax phone number for the organization where this application or proceeding is assigned is (703)305-5436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0651.



Kevin R. Kruer,  
Patent Examiner.

  
**BLAINE COPENHEAVER**  
**PRIMARY EXAMINER**